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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/763,217

01/26/2004

Torsten Wahler

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EXAMINER

LIANG, LEONARD S

ART UNIT

PAPER NUMBER

2853

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/763,217	Applicant(s) WAHLER, TORSTEN	
	Examiner LEONARD S. LIANG	Art Unit 2853	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2004 and 26 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7 is/are rejected.
- 7) ☒ Claim(s) 5 and 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04/22/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on 08/03/01. It is noted, however, that applicant has not filed a certified copy of the 201 12 945.0 application as required by 35 U.S.C. 119(b).

Drawings and Specification

The drawings and specification filed on 01/26/04 are approved.

Claim Objections

Claims 4 and 7 are objected to because of the following informalities: Claims 4 and 7 recite the limitation "the support" in line 2. There is insufficient antecedent basis for this limitation in the claim. It will be construed that the claimed support corresponds with figure 3, reference 34 of the specification, but distinguishing limitations must be made in the claims. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-3 are rejected under 35 U.S.C. 102(a) as being anticipated by Wahler (DE Pat 20104561 U1).

Wahler discloses:

- {claim 1} A tachograph (figure 1) having a flat cuboid housing (figure 1, reference 2); a registration device for use with a bundle of tachograph charts (figure 2, reference 12), the device arranged within the housing and comprising a base disk (figure 1); separation blade (figure 1, reference 23); registration elements (figures 1-2) and a chart stop (figure 1, reference 34), such that the charts are attached to the base disk by means of connecting strips (figure 2, reference 20) and include a sector-shaped cutout (figure 1, reference 40) for the separating blade and registration elements to pass therethrough from one tachograph chart to another in the bundle of tachograph charts thereby gradually separating the bundle of tachograph charts thereby gradually separating the bundle of tachograph charts in the course of a registration conveying process, the charts being stacked against a stop, with one edge of the cutout interacting with the stop, whereby a stop edge of a tachograph chart which is conveyed against the stop is prevented from impacting against the tachograph-chart end of the cut-through connecting strip of a tachograph chart already located at the stop, and comprising a ramp arranged such that the tachograph charts which are separated off from the bundle of tachograph charts and rest against the stop are lifted off from a respective registration plane within an angular range which corresponding to at least the sector-shaped cutout of a tachograph chart, and the spacer element

Art Unit: 2853

positioned with respect to the stop such that a tachograph chart which is conveyed against the stop at the end of a registration cycle is lifted up in such a way that the stop edge of the tachograph chart comes into contact with the tachograph chart, essentially between the connecting strip and the stop edge of a tachograph chart which rests against the stop (figures 1 and 3, reference 51 show spacer; abstract)

- {claim 2} wherein the spacer element is formed directly on the separating blade (figure 1, reference 23, 51)
- {claim 3} wherein the spacer element is integrally formed on the holder of the separating blade (figure 1, reference 23, 51)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wahler (DE Pat 20104561 U1).

Wahler discloses, with respect to claims 4 and 7, a tachograph (as applied to claim 1 above).

Wahler differs from the claimed invention in that it does not appear to explicitly disclose that the spacer element is adjustably attached to the support.

However, insofar as it is understood, the claimed support appears to correspond to the holder of Wahler (figure 1, reference 28). In such a scenario, the spacer element is adjustably attached to the support.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the teachings of Wahler. The motivation for the skilled artisan in doing so is to gain the benefit of providing support for the tachograph spacer element.

Allowable Subject Matter

Claims 5-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 5 discloses "wherein the spacer element comprises a concave design and is attached to the separating blade by means of an injection-molding technique," which was not found, taught, or disclosed in the prior arts.

Claims 6 discloses, "wherein the spacer element comprises a mushroom-shaped component which can be attached to the separating blade," which was not found, taught, or disclosed in the prior arts.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Knauer et al (US Pat 4903044) discloses an arrangement for the automatic and correct positioning with respect to time of a record chart bundle serving to record in segments in a continuous manner.

Knauer et al (US Pat 4911420) discloses an arrangement for transporting a record chart bundle.

Kobayashi (US Pat 3611427) discloses a longtime recording chart set.

Hautvast et al (US Pat 5043562) discloses a multi-daticard arrangement.

Puchik (US Pat 3631516) discloses a recording chart.

Hug et al (JP Pat 10030937 A) discloses a driving coupler for recording mechanism provided in tachograph.

Saeger (DE Pat 297 01 586 U1) discloses an arrangement for clamping recording disc in commercial vehicle recording device e.g. tachograph has clamp element which is brought into force transfer connection with support by closing drawer and which is loosely and rotatably mounted on carriage which is guided in housing and movable by drawer.

Gault et al (GB Pat 2067291 A) discloses a device for controlling the positioning of the pen of a tachograph.

Brockbank et al (GB Pat 2162640 A) discloses improvements in or relating to tachograph charts.

Muramatsu et al (JP Pat 08115448 A) discloses a tachograph.

Hug et al (EP Pat 800151 A2) discloses a drive connection for a tachograph registering device.

Sager (GB Pat 2321706 A) discloses an arrangement for fixing charts in tachographs.

Art Unit: 2853

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEONARD S. LIANG whose telephone number is (571)272-2148. The examiner can normally be reached on 8:30-5 Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Meier can be reached on (571) 272-2149. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

03/26/08

/Leonard S Liang/

Examiner, Art Unit 2853

/Stephen Meier/

Supervisory Patent Examiner, Art Unit 2853